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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Fifty-first session
Item 7 of the provisional agenda

HUMAN RIGHTS OF INDIGENOUS PEOPLES

Written statement submitted by Survival International Limited,
a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 June 1999]

GE.99-13792 (E)

Violations of the rights of the Guarani of Mato Grosso do Sul State, Brazil

Introduction

1. Survival International is concerned over the lack of recognition of many Guarani communities' land rights and the continuing high rate of suicide amongst the Guarani. Lack of land has also given rise to malnutrition and consequent illness and death. It has also forced the Guarani to seek employment outside the indigenous areas, where they come into contact with alcoholism, prostitution, and are exploited as cheap labour in the alcohol refineries in the region.

I. THE GUARANI

2. The Guarani in Brazil are divided into three groups: Mbyá, Kaiowá and Ñandeva. The Kaiowá, the majority, and the Ñandeva live in the State of Mato Grosso do Sul (MS). Before the arrival of the Europeans, the Guarani occupied a vast region in the south-centre and south-east of South America. There were an estimated 1.5 million Indians in a territory approximating 350,000 km^2. For two centuries they occupied more than 25 per cent of MS: over 8 million hectares. The Guarani in Brazil now number about 30,000.

3. According to the anthropologist Melia, the Kaiowá are the Guarani who best define and recognize their territorial limits. In MS, they identify their area with precision, naming rivers, valleys and mountains; some of these carry Guarani nomenclature in official maps, e.g. Serra de Mbaracajú, Rio Jejui, and Serra de Amambai. Historical records show that the immemorial presence of the Guarani Kaiowá on these lands is indisputable.

Land, history and current situation

4. The mass invasion of Guarani land started at the turn of the century when tea, then maize, sugar cane and soy plantations and cattle ranches progressively took over Indian land. The Guarani were used to establish the farms, and then dismissed; they subsequently sought to return to their tekoha, their place and particular way of being. Some of these tekoha were by then occupied by farms and non-Indian settlements. The Government then created the village policy, aiming to retain only a small piece of land for the Indians, thereby initiating the process of social disintegration among the Guarani.

5. Between 1915 and 1928 the Indian Protection Service (SPI) demarcated eight reserves, totalling 19,700 hectares. Some of these were close to urban areas, so as to speed up the integration process. Thenceforth the lands were occupied by large farms, leaving only the reserves for the Guarani. Over the years the reserves have proved to be unviable as they do not correspond to the Guarani's mystical and the ancestral territories. The reserves have not provided security, and land invasions have reduced the Guarani area to 50 per cent of its original size. Colonization programmes also contributed to reduction in Guarani land, and dozens of villages have become extinct over the last three decades. Guarani population growth makes the pressure more acute.

6. Since the 1980s, faced with the lack of government action, the Guarani themselves began to take initiatives to regain their tekohas, and returned to three areas: Pirakuá-Bela Vista, Guaimbé and Jacaré Ranch. The Guarani leader Marcal Tupã'y was assassinated in Pirakuá in November 1983, by ranchers opposed to the Guarani action. The assassins fled and those who ordered the assassination have twice been tried and declared innocent.

7. In the 1990s, the Guarani began a process called retomadas (taking back land) because, despite government recognition of the tekohas as areas of immemorial occupation, it has not taken concrete action to enable the Indians to return to them. Because several of these areas have been invaded by outsiders, the Guarani often face violence on retaking them. This has resulted in the death of dozens of Indians. For example, in tekoha Sete Cerros the religious leader Julio Campos, known as Morenito, his wife Gregoria Oliveira and one of their daughters were assassinated. The case is still under police investigation.

8. Although 39,432 hectares have been ratified as Guarani land, most of it has been invaded and is pending judicial decision. So in practice, the land area occupied by the Guarani is less than this, and is insufficient for the maintenance of their culture and physical survival.

9. Land is a vital reference point for the Guarani, not just in its physical but also in its mystical dimension, which structures the whole of Guarani society around the tekoha. The Guarani need not just any land, but that in which their ancestors built up the mystical base for constructing the "Land without Evil". Over the years, the absence of these lands has led to the de-structuring of Guarani Kaiowá society. The process of expulsion of the Guarani has forced them to take up temporary employment in the region's large farms and alcohol refineries, thus distancing them from the extended family, the traditional form of social organization. This has led to the loss of the mystical reference vital to the maintenance of their cosmovision.

Suicide among the Guarani

10. The analysis of sociologists, anthropologists, lawyers and psychologists converge over the primary cause of the large number of suicides which have taken place in recent years among the Guarani: the lack of land. Between 1986, when the register of suicides among Guarani was reintroduced, until June 1999 there have been at least 300 documented suicides. This represents 1 per cent of the Guarani population.

11. According to anthropologist Rosali Arruda, awareness of suicides in the Dourados area, inhabited also by the Terena indigenous group, began in 1981. At the beginning of the 1970s power was transferred between the official Indian agency to some Terena individuals who became mediators between the State and the indigenous society. Land, which to the Guarani was of collective ownership and held symbolic significance, was expropriated by the mostly Terena members of the Indigenous Police. The resulting land dispute led to violence against the Guarani because their exclusion was necessary for the incorporation of new areas by the Terena. In a 1976 report, the then Bishop Dom Teodardo Leitz denounced the growing rivalry between the Terena and Guarani, as well as the existence of slave labour. The Indigenous Council

(which replaced the Indigenous Police) has, by its use of violence, inhibited any display of discontent on the part of the Guarani, who can be repressed with beatings, prison, expulsion from the area or even murdered. Some of those deaths are reported as suicides.

The influence of religions and loss of shamanism

12. Because they are profoundly mystical, the Guarani are very sensitive to the influence of religions. The first evangelical mission arrived in the area of Dourados in 1928. Other missions were later established in other indigenous areas among the Guarani. The Pentecostals arrived in 1980, and in 1982 had 8 churches inside Guarani areas and a further 10 nearby.

13. The absence of mystical land and the influence of external religions have contributed to the elimination of Guarani shamans. Internal and external repression in recent years has prohibited the emergence of new ones. Nevertheless, some shamans remain, and the Guarani believe they are vital for the way in which they communicate with unknown and dangerous supernatural phenomena. According to Guarani beliefs, illnesses and negative forces materialize in individuals and only the shamans have the power and competence to expel them. In the absence of a shaman, the bewitched individual cannot fight these forces. Suicide becomes an inevitable alternative. For the Guarani, someone who has committed suicide has been bewitched, possessed with negative forces which only a shaman can expel.

II. THE BRAZILIAN STATE

14. The cattle ranches today, like those of coffee and mate (tea) plantations of yesterday, are evicting the Indians from the land.

15. The official Indian agencies (SPI and FUNAI) have rarely treated the Guarani according to their needs. From the beginning of the century, when they removed the Guarani from their tekoha to free up their lands for nationals, or introduced another ethnic group such as the Terena in Guarani land to speed up their integration, the Brazilian State has failed to fulfil its legal obligations as defined in chapter 8, article 231, of the Brazilian Constitution which says that the State must recognize "Indians social organizations, customs, languages, beliefs and traditions, and rights to lands they traditionally occupy, making it due to the Union to demarcate them, protect and make all their goods respected".

16. Reports from FUNAI, anthropologists and the press clearly demonstrate that the Brazilian State was and is aware of the violence unleashed on the Guarani Kaiowá. For example, a 1992 report by FUNAI's Amambai Regional Administrator about the indigenous area of Sete Cerros concludes that "the Indians cannot wait any longer. Urgent measures should be taken, otherwise the tragic deaths which are occurring will increase, with irreversible and irreparable consequences for the Guarani community". Knowledge about the overpopulation in various Guarani areas, about the suicides, external and internal interference, and its own lack of support of the Indians' needs makes the Brazilian State responsible for the social, economic and political disintegration which the Guarani are undergoing.

17. The Brazilian State is in violation of ILO Convention No. 107, to which it is a party, article 13 (1) of which states:

> "Procedures for the transmission of rights of ownership and use of land which are established by the customs of the populations concerned shall be respected, within the framework of national laws and regulations, insofar as they satisfy the needs of these populations and do not hinder their economic and social development."

Article 14 of the Convention requires States to make "the provision for more land for these populations when they have not the area necessary for providing the essentials of a normal existence, or for any possible increase in their numbers".

18. Brazil is participating in the drafting of the United Nations Convention on the Rights of Indigenous Peoples which, among other things, recognizes: the urgent need to respect and promote the inherent rights and characteristics of the indigenous peoples, especially their rights to their lands, territories and resources, which derive from the political, economic and social structures and from their cultures, spiritual traditions, history and philosophies.

19. We conclude that the lack of land is the principal cause of the Guarani social, religious, political and economic de-structuring. The Brazilian State has in its power sufficient legal elements with which to return to the Guarani the lands which were taken from them, and consequently offer them the basic elements for the reconstruction of their life.

III. RECOMMENDATIONS

20. Survival International calls on the Sub-Commission to investigate the serious violations of the human rights of the Guarani people in Mato Grosso do Sul State. The Sub-Commission should send an investigative mission to the area to document the grave situation of the Guarani and in particular to document the lack of land, the extremely high rate of suicides and the working conditions in the alcohol factories.

21. We ask the Sub-Commission to raise the question of the Guarani's land rights with the Brazilian Government. The Brazilian Constitution guarantees the rights of indigenous peoples to the lands they originally occupied. It is essential that the Guarani who live in the reserves created by the State, such as Dourados or Amambai, return to their original lands or tekohas. The Guarani, who are now living on minute parcels of land which are totally insufficient for their cultural and economic needs and their expanding population, need the full support and cooperation of the Brazilian authorities.

22. Finally, we call upon the Brazilian Government to provide technical support to restore the Guarani territories degraded by cattle ranching and monoculture plantations and to implement socio-economic projects, in accordance with the Guarani's needs, which will ensure their self-sufficiency and autonomy in the future.

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Item 8 of the provisional agenda

PREVENTION OF DISCRIMINATION AGAINST AND THE PROTECTION OF MINORITIES

Written statement submitted by Caucasians United for Reparations and Emancipation, a non-governmental organization on the Roster

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[9 June 1999]

Legacy of the African Slave Trade:

Statement by Silis Muhammad on behalf of African Americans

1. The lingering effects of plantation slavery have left me and my people in a state of genocide. Genocide is to a group as homicide is to an individual. Rent from our land, our roots, sold and forced into slavery: we have been recognized as slaves, Niggers, Negroes, Coloureds, Black Americans and today we are the so-called African Americans. We are more than 40 million, and yet we are a people dead. We have been dead, as slaves, for 400 years. Is not our struggle for human dignity equally as important as that of groups at war for their human life? Ours is a war of the mind. The United Nations will send troops to protect physical life. Is not our war as great? Is not the mind as precious as the body? To be alive, with the knowledge that I am, as a man, dead, is worse than physical death. Death of the physical body sets you free. Death of the human spirit is a living hell.

2. Beginning with slavery and to this date, we are a revolving nation, within the nation of America. We are absent our foundation - our human rights: culture, religion and mother's tongue. We have lost our original identity. While we are a people, and not a minority, we are treated as a minority by the United States Government. Therefore, we bring our case to the Sub-Commission on Prevention of Discrimination and the Protection of Minorities.

3. The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which flows from the Universal Declaration of Human rights, addresses the question of identity. Concomitantly, the Universal Declaration envisages, to quote Professor Eide, "the establishment of a common framework of protected human rights for everyone, everywhere".

4. The United States knew, upon the adoption of the Universal Declaration on 10 December 1948, that African Americans did not have their original mother's tongue, their inherent religion or their ancestral culture - their human identity. America did not have us in mind at the time of signing that document; or if had the intention to persuade the United Nations that it did. To the extent that the United Nations left us out of the Universal Declaration of Human Rights, the Government of the United States has designed a falsehood which has hampered the United Nations and its Member States. We have been left out of the declaration on the rights of minorities also, because of this falsehood.

5. To be left out of both the declaration on the rights of minorities and the Universal Declaration is to not have recognition of our human life, politically. We have no identity because we were intentionally deprived of education in our mother's tongue, thus we do not have our own culture. Absent our culture, we exist in a state of civil death.

6. We are concerned about our right to education in our mother's tongue as we know that it would guarantee us an identity. We appreciate the declaration on the rights of minorities in its focus on education, but we conclude that even if the United States wanted to, it could not restore us to our family

roots and our mother's tongue. It cannot trace our lineage except to the continent of Africa, where there exist over 1,200 families of languages. Therefore, we must be allowed to choose the mother's tongue or tongues that we, as a people, wish to speak. We feel we must have the protection of a United Nations forum as we engage in this stage of the mental war for our identity, lest we be targeted and considered subversive by the United States Government.

7. Our identity as a people, in possession of our human rights, can never be achieved if left entirely to the will of the United States. Why? America's refusal to ratify the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity in 1968, some 20 years after the adoption of the Universal Declaration, makes it blatantly clear, again, that it did not have in mind human rights for everyone, everywhere.

8. The failure of the United States to ratify that particular convention reveals the intent of the United States Government at the moment and time of its act. Its thinking is consistent with its thinking in 1948. Either it did not have us in mind, or it seeks specifically to block the pathway to our human rights - our identity. While holding us in this ever-revolving state, the United States holds itself as being in full compliance with the spirit of United Nations - protected human rights for everyone, everywhere, and causes us to remain trapped within the Anglo-American culture, regenerating her religion and tongue, in reality, her identity.

9. Thus, the United States has committed fraud against the United Nations, genocide against us, and we linger in a state of civil death, as our identity has not been preserved. We conclude that since its inception, a consistent violation of the Universal Declaration of Human Rights has been perpetrated by the United States.

10. We recommend the establishment of a United Nations forum, with expert guidance, for African Americans in the United States, at United Nations Headquarters. We believe that the United Nations has a moral obligation to persuade the United States to financially provide for the forum inasmuch as the fraudulent acts of the United States Government have hampered the United Nations in fulfilling its obligation to protect human rights for everyone, everywhere. Surely there ought to be grave concern that more than 40 million people have been left out and do not have their protected human rights. If the United States Government refuses to financially support a forum, we would gratefully accept the sponsorship of the United Nations or any sympathetic Government.

11. We want a forum for the purpose of restoring our human rights - which only we can reclaim or choose: our legal, political being and status as a people. Within a forum, we will (i) promote respect for the Universal Declaration of Human Rights amongst ourselves, which will ultimately include the Diaspora; (ii) rebuild a kind of council or governing body amongst ourselves, absent the social engineering of the United States Government; (iii) openly discuss within this council the devolution, of pertinent parts of the Constitution of the United States, which defines us as three fifths of a

human being; (iv) make choices on the mother's tongue or tongues that we, as a people, wish to speak; and (v) discuss reclamation, restoration, repatriation, reparations and migration of some of us to a friendly nation.

12. This package will be presented to the United States. The venture commenced, intelligence can be gained for the Sub-Commission that might usefully address the continuing legal, political and economic legacies of the slave trade as experienced by the victims. We want these discussions to benefit race relations in the society of the United States. The establishment of a forum for the reasons stated would also eliminate the burden of slavery for America's future generations.

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Items 3 and 9 of the provisional agenda

COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO THE ELIMINATION OF RACIAL DISCRIMINATION

THE ADMINISTRATION OF JUSTICE AND HUMAN RIGHTS

Written statement submitted by the International Movement Against All Forms of Discrimination and Racism, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[7 June 1999]

Discrimination and the right to a fair trial

1. Acknowledging with appreciation that the Sub-Commission on Prevention of Discrimination and Protection of Minorities had considered the question of fair trials till 1996, the International Movement Against All Forms of Discrimination and Racism (IMADR) wishes to provide information on a concrete case of an unfair trial involving a defendant who belongs to a minority group in Japan, in the hope that the Sub-Commission will reopen its consideration of the issue of fair trials.

2. In 1963 a high-school girl was kidnapped and killed in Sayama City, Saitama Prefecture, Japan. This murder case, which is called the "Sayama Case" after the place of the killing, led to the arrest of Mr. Kazuo Ishikawa, who belongs to the Buraku people or Burakumin, a group who still face serious discrimination. Mr. Ishikawa was first arrested on a minor charge by the police who had been hunting for a criminal in a matter involving prejudice against Burakumin, allegedly forced to falsely confess to murder in the Sayama Case after a long interrogation and examination in a substitute prison (Daiyo Kangoku), and convicted. For over 36 years, Mr. Ishikawa has called for a retrial of the case, claiming his innocence.

3. Nearly 13 years have passed since Mr. Ishikawa's defence counsel filed a plea for retrial with the Tokyo District High Court and demanded the interrogation of particularly important unsworn witnesses and legal advisers and a fact-finding investigation. In the Sayama Case, an examination of the evidence has not been done for almost 25 years. Mr. Ishikawa's defence counsel has also demanded the full disclosure of all evidence possessed by the prosecutors. Despite the continuous negotiations with the prosecutors, however, the evidence has yet to be disclosed, though the Prosecutors Office has admitted to the possession of a large volume of evidential materials and items. Disclosure of even the list of all evidence, which the defence counsel demands as a first step, has not yet been made.

4. The prosecutors argue that some of the evidence relates to the privacy of the persons involved, and that making it public would put at risk citizens' cooperation with police investigations in the future. However, we believe that after 36 years, disclosure of such items cannot be considered an obstacle to police investigation and, besides, they would not be used outside the court. The principle of the retrial system, "giving relief to the innocent", should be respected. Moreover, as the prosecutors have an obligation to investigate the circumstances of the crime, they should disclose all evidence possessed by them on their own initiative. Without disclosure of the list of all the evidence, the defence counsel is deprived of any effective means of knowing their contents and to identify the items to be disclosed. It is unfair and an injustice.

5. The Human Rights Committee, having examined the fourth periodic report of Japan (CCPR/C/115/Add.3 and Corr.1) in October 1998, recommended, among other things, that Japan should ensure "that its law and practice enable the defence to have access to all relevant material in order that the right of defence is not hampered" (CCPR/C/79/Add.102, para. 26). It is noteworthy that during the consideration of Japan's report, a question was raised by a member

of the Committee as to how Japan's legal system guarantees access to evidence unknown to defence lawyers, and the Sayama Case was specifically mentioned as a case in point.

6. Responding to the recommendation of the Human Rights Committee, several Japanese legal experts and law practitioners are now discussing how the guarantee of disclosure of evidence should be promoted. In Parliament, government leaders are being questioned in this regard. To guarantee the disclosure of evidence for the defence is indeed one of the major issues in the current legal reform of criminal proceedings in Japan.

7. Encouraged by the Committee's recommendation, the defence counsel for Mr. Ishikawa has filed an appeal with the Tokyo High Prosecutors Office, in which it particularly demands the disclosure of evidence that may not be deemed as infringing on anyone's privacy. In Japan, submission of new evidence is the prerequisite for a retrial.

8. The Japanese Government, as a State party to the International Covenant on Civil and Political Rights, should be urged to take immediate action to ensure that Mr. Ishikawa is guaranteed a fair trial and that all evidence is disclosed, in compliance with article 14.3 (b) of the Covenant which stipulates that everyone charged with a criminal offence shall be entitled to have adequate time and facilities for the preparation of his/her defence.

9. IMADR hopes that the Sub-Commission will once again consider the question of fair trials and examine, in particular, unfair trial cases involving minority groups like the "Sayama Case", which are grounded in deep-rooted discrimination and prejudice.

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Item 3 of the provisional agenda

COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO THE ELIMINATION OF RACIAL DISCRIMINATION

Written statement submitted by the International Organization for the Elimination of All Forms of Racial Discrimination, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[20 May 1999]

GE.99-13842 (E)

1. Racism and racial discrimination in all its multifaceted manifestations has invariably had a negative impact on human society throughout decades and centuries of documented history. Therefore, it is incumbent upon modern society at the end of the twentieth century to seriously evaluate itself and face its weaknesses in order to rid the world of this dangerous ailment threatening the future of forthcoming generations. Such a critical assessment of the past and present is a major test of our binding sense of individual and group responsibility under the guardianship of this great international organization, the United Nations, which we have agreed to recognize as an international instrument for peace and prosperity on this planet.

2. One of the first things that comes to mind in relation to racism and racial discrimination is that it is a phenomenon which has persisted throughout human history and resulted in many afflictions and tragedies. One of the most recent tragedies was the premeditated plan to annihilate the native Indians, as well as the exploitation of Africans, in the continent we know now as America.

3. However, what appears to be happening is that this phenomenon, with its ethnic, religious and racial elements, has begun to diminish in popularity. Little by little, it is being replaced and re-manifested through a new scale designed to discriminate between nations and peoples on the basis of rich versus poor nations and developed versus developing countries.

4. The peoples of advanced nations whose progressive civilization made strides in science and technology in general look condescendingly upon peoples of less advanced nations. What makes the gap wider and worse for humanity is that some of the advanced nations have constantly taken advantage of the bad circumstances from which less advanced nations have suffered. By doing so, advanced nations have gained even more power over the less advanced nations and have managed to continue exhausting their resources. This is often done in devious and insidious ways that obstruct any potential for advancement and progress.

5. This has led to major disparities, instability and imbalance between States as witnessed especially in comparisons between West and East, North and South, whereby the injustice and oppression are so deep rooted and widespread that the inequity is self-evident. Moreover, empirical studies and statistics further support that two thirds of the world's revenues go to one third of the world's population, whereas one third of the world's revenue goes to two thirds of the developing world's population.

6. Since the world has become a "global village" due to more efficient and sophisticated communications and transportation networks, it has been easier to follow its overall momentum. A general sense of injustice and oppression has devastated the populations of developing nations, leading some groups to migrate in unrestrained large numbers to the developed world. The negative and tragic consequences of such wide-scale migration have affected both the migrating people and the populations in which they had to be integrated.

7. At the same time, this general sense of injustice and oppression has led other groups to an angry display of hostility. The dangerous consequences of such rebellion have made the threat of violence and terrorism a reality for

the innocent victims, who always end up paying the price with their lives for crimes they did not commit and oppressive circumstances they are not responsible for.

8. We think that combating racism and racial discrimination should be undertaken through combating its basic roots as manifested in an ever-widening disparity between extreme states of poverty/wealth, illiteracy/literacy and underdevelopment/advancement. The upcoming World Conference against Racism and Racial Discrimination, Xenophobia and Related Intolerance should focus on these basic elements of racism, especially in relation to the issue of underdevelopment. We should try to exert our efforts to address this problematic phenomenon of development (i.e. progress and prosperity) on the one hand, and underdevelopment on the other. It is important to highlight this issue rather than to keep addressing the ethnic, religious and racial symptoms since these seem to be merely the peripheral side-effects which have commonly and typically taken priority in previous meetings. So far, the focus on the ethnic, religious and racial manifestations has only succeeded in generating recommendations and drafting resolutions by well-meaning people. It has neither been effective nor has it had the desired long-lasting impact on human nature and history. It has proven almost impossible to design effective programmes to get rid of these symptoms in society.

9. The more powerful among us, who have achieved high levels of progress in science and technology, have to assist their brothers and sisters in humanity to attain the same level if we truly want to eliminate discrimination. The idea of keeping technology and modern science away from the developing world is dangerous and threatens terrible consequences which will affect the Western world itself in the long run.

10. Combating racism and racial discrimination cannot be done with kind words or through media and propaganda-oriented donations. What the developing world needs is neither food, which will be eaten by the strongest among them, nor arms which the tyrants will use against the weaker ones. The developing world needs the means to develop and progress. This end cannot be achieved except through education, and education alone. Thus, the foreign aid that is offered by developed countries to developing ones which by the way, should be multiplied many-fold, must not be dispersed except via an international law for the construction of schools, educational institutions and universities. This is the first step towards paving the path to enhance the potential for development and, in turn, to fight discrimination.

11. The leadership of the developed world must realize that their efforts in regard to the problem of underdevelopment and its related consequences of racism and racial discrimination are not only in the best interests of their own people in the long run, but also that such efforts are debts they should pay in expiation of their previous guilt as bearers of the responsibility of what has resulted from their previous colonial policies. In other words, they must realize that efforts on their part are not favours or acts of condescending generosity. What developed nations enjoy today in the Western world is the result of great strides taken previously by other ancient civilizations in India, China, Persia, North Africa and north of the Arabian peninsula such as the Chaldean, Assyrian, Babylonian, Phoenician, Sumerian, and Pharaonic civilizations. As the American historian William Durant stated

in his large volumes entitled "The Story of Civilization", the Western world would be gravely mistaken if it thought that its civilization and the luxuries it offers today has been the result of the Greek and Roman civilizations. The Greek and Roman civilizations were merely elementary students of the Eastern civilization.

12. Our organization calls upon members and NGOs to support the following recommendations:

(a) Asserting that foreign aid offered to developing countries must be regulated by international law and directed only toward education, and education alone;

(b) Super-Powers should be obligated to abide by the laws of the International Court of Justice;

(c) The unilateral veto which the super-Powers exercise must be subservient to the rulings of the International Court of Justice.

We believe such recommendations are indispensable for world peace and progress.

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Fifty-first session
Items 4 (b), 5 (b) and 11 of the
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THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS: THE REALIZATION OF THE RIGHT TO DEVELOPMENT

THE IMPLEMENTATION OF HUMAN RIGHTS OF WOMEN: THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT

SITUATION REGARDING THE PROMOTION, FULL REALIZATION AND PROTECTION OF THE RIGHTS OF CHILDREN AND YOUTH

Written statement submitted by the International Council of AIDS Service Organizations, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[7 June 1999]

GE.99-13846 (E)

The impact of HIV/AIDS on women, children and development

1. In just two decades, AIDS has become the leading cause of death in Africa and now kills more people worldwide than any other infectious disease. According to UNAIDS, by the end of 1998 the number of people with HIV (the virus that causes AIDS) had reached about 34 million, 10 per cent more than just one year earlier. More than 95 per cent of all HIV-infected people now live in the developing world, which has likewise experienced 95 per cent of all deaths to date from AIDS. These deaths are largely among young adults who would normally be in their peak productive and reproductive years.

2. This impact is seen in deteriorating child survival, reduced life expectancy, overburdened health care systems, increased numbers of orphans and government and private sector losses. Together, the epidemic's visible and less-visible consequences constitute an urgent and massive threat to development.

3. In 1997, women accounted for 41 per cent of the number of infected adults worldwide. In 1998, women represented 43 per cent of all people over 15 years living with HIV infection. There are no indications that this trend will reverse. For example, in African countries with high rates of new HIV infections among young people, young women are twice as likely as young men to become infected.

4. By 2005-2010 for example, 61 out of every 1,000 infants born in South Africa are expected to die before the age of one year. In the absence of AIDS, infant mortality would have been as low as 38 per 1,000. In Botswana, where more than 25 per cent of adults are infected, children born early in the next decade can expect to only live to just over 40 years (instead of 70 years). Between 1996 and 1997, Botswana dropped 26 places down the Human Development Index.

5. Young people are disproportionately affected by HIV/AIDS. Around half of new HIV infections each year are in people aged 15-24. About 1.7 million young people in Africa get infected with HIV every year. In Asia and the Pacific, the figure is close to 700,000.

6. People living with HIV/AIDS (or suspected of infection) risk discrimination, violence, even death. Those most vulnerable to infection are also groups which face discrimination and stigmatization in other contexts (e.g. women, drug users, young people, men who have sex with men). Of further concern is attacks on the rights of HIV/AIDS activists, educators and human rights defenders, who may be targeted for their work with people with HIV/AIDS or disadvantaged communities.

7. ICASO recalls that in September 1996, an international consultation of experts convened by UNAIDS and the (then) Centre for Human Rights drafted the International Guidelines on HIV/AIDS and Human Rights. The Guidelines, which were annexed to resolution 1997/33 of the Commission on Human Rights and welcomed by the Sub-Commission in resolution 1997/40, provide guidance for Member States, United Nations system and regional intergovernmental bodies, and non-governmental organizations on a

comprehensive framework for policy and law reform to limit the spread of HIV and reduce the impact of HIV and AIDS. In resolution 1999/49, the Commission requested a further report on steps taken to promote and implement the Guidelines.

ICASO action to promote the International Guidelines on HIV/AIDS and Human Rights, and related activities

8. To assist NGOs disseminate and promote the International Guidelines, ICASO (with UNAIDS funding) has prepared two documents: an NGO Summary and an Advocate's Guide (available in English, French and Spanish). In June 1999 ICASO also published a collection of case studies of national activities on HIV/AIDS and human rights.

9. ICASO also assists NGOs and community-based organizations to draw the attention of the human rights treaty bodies, special rapporteurs and representatives to HIV/AIDS-related abuses of human rights. In June 1999, ICASO made a submission to the Human Rights Committee with information provided by the Bucharest Acceptance Group (ACCEPT) and supported by the Romanian Association Anti-AIDS (ARAS).

10. To promote better access to effective medications for HIV infection and AIDS in developing countries, ICASO supported the adoption of the Revised Drug Strategy by the World Health Assembly in May 1999.

Recommendations

11. ICASO calls on the members of the Sub-Commission, special rapporteurs, working groups, Member States and NGOS participating at this session to:

1. Unite in a spirit of global solidarity to support developing countries and resource-poor communities, where the burden of the HIV/AIDS epidemic is greatest.

2. Review the International Guidelines on HIV/AIDS and Human Rights in the context of their work on the realization of the right to development, the role and equal participation of women in development, and the promotion, full realization and protection of the rights of children and youth, and other areas.

3. Include references, where appropriate, to the impact of HIV/AIDS on these areas and recommendations for action to address HIV/related abuses.

4. Disseminate, promote and implement the International Guidelines on HIV/AIDS and Human Rights, as appropriate, and document and publicize such activities.

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PREVENTION OF DISCRIMINATION AGAINST AND THE PROTECTION OF MINORITIES

Written statement submitted by the International Human Rights Association of American Minorities, a non-governmental organization on the Roster

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[6 June 1999]

GE.99-13850 (E)

1. Under the present conditions of world affairs as they concern protection of ethnic minorities, IHRAAM wishes to call attention to the situation of forced assimilation as it relates to African Americans, Native Americans and other national minorities in the United States, and to recent findings of a scientific survey of opinion in this regard in one of the American minority communities, the African-American community.

2. While the problem of ethnic oppression in the United States, unlike that in Kosovo, Nigeria, Tibet, Rwanda, India, etc., cannot credibly be said to pose a problem to international peace, it clearly poses an unbearable burden for the peace and security of the minorities concerned, and thereby to that of the United States itself. Previous IHRAAM communications to the Sub-Commission have addressed in detail the extent of disproportionality between the well-being of American national minorities and that of the dominant group, as well as their need to be recognized as national minorities for the purposes of international protection.

3. In the United States and other States in the western hemisphere, policies of forced assimilation act to create and maintain systemic and institutional discrimination against minorities under the cover of aiding their development and unity with other citizens. This has resulted in the creation of conditions that make it almost impossible for the majority to understand or process the unique needs and demands of the minorities, or for the minorities to understand or construct their unique needs in a way that permits these unique demands and needs to be expressed within the context of the search for democracy and human rights; a form of consociated development leading to fusion or equal status coexistence.

4. The solution to the minority crisis as it is presently occurring in the United States and other such majoritarian multinational States will require the United Nations to address its attention to the policies that foster forced assimilation, particularly in those States which claim to provide a democratic model for human rights protection and development. Clearly, the model of the United States, which has sought to address minority problems solely through the extension of civil rights - non-discrimination, equality before the law, the right to vote, etc., within the context of forced assimilation - has been proved inadequate by a wide array of measurements of the well-being of its national minority communities. Also, United States promotion of policies of forced assimilation on the global level may have contributed to the rash of minority-majority conflicts that presently plague world peace and development. The efforts of certain States to institute policies of forced assimilation is probably a major cause of discrimination against and devaluation of national minorities.

5. In order to measure the degree of satisfaction of one such minority with current official policies of civil rights/non-discrimination within the context of forced assimilation, the IHRAAM undertook a National Survey on Human Rights, which polled the attitudes of African Americans on a number of key questions relevant to their situation as a minority in order to ascertain their views. The findings of this recent survey - perhaps the first of its kind - are attached hereto. Further information on the scientific parameters established for the conduct of the survey, and on its results, is available on the IHRAAM Website at http://www.ihraam.org.

6. As this summary clearly indicates, African Americans conceive of themselves as a recognized minority with individual and collective human rights. Thus, the insistence by the majority in the United States to use the United States Government and all societal institutions to foster a policy of forced assimilation in relation to African Americans is clearly a violation of this minority's human rights and a continuation of the pattern of gross violation of their human rights which the United States Government has pursued in its historic official policies of enslavement, segregation, etc., as has been brought to the attention of the Sub-Commission by IHRAAM in its petitions under the 1503 procedure in 1993 and 1995.

7. IHRAAM therefore requests the cooperation of the United Nations in setting up discussions or conferences at the international level on the subject of forced assimilation in general, and on the situation of the African Americans and the right to self-determination as it may apply to them, with special attention, at minimum, to their right to an apology from the United States Government for the enslavement of their African ancestors.

8. Perhaps if international attention by the United Nations Sub-Commission to minority distress caused by forced assimilation had not been overlooked at an earlier stage, then the violent conflicts in the Balkans and elsewhere could have been avoided by creating a developmental model that would better enable all the stakeholders to better understand that processes of forced assimilation are a fundamental cause of minority conflict which clearly pose a threat to global peace and security.

SUMMARY OF NATIONAL SURVEY ON HUMAN RIGHTS

1. What is your Zip Code #? _____

2. Are you a native-born American citizen? Yes 88% No 12%

   If "No", note country of birth _____

3. Are you a registered voter? Yes 91% No 9% Uncertain ____

4. What is your gender? Male 38% Female 62%

5. What is the highest grade you completed in school? _____

6. What is your age range?

A.	18-25	4%
B.	26-35	14%
C.	36-49	25%
D.	50-64	25%
E.	65 and over	32%

7. How would you describe most of the people who live in your neighbourhood?

A.	Blue collar/working class people	78%
B.	White collar/professional class people	22%

8. How would you identify your racial or ethnic grouping?

A.	African-American	80%	D.	Latino-American	3%
B.	Asian-American	2%	E.	Native-American	3%
C.	European-American	6%	F.	Other (identify)	6%

9. Do you believe that problems of racial inequality exist in American society?

   Yes 90% No 6% Uncertain 4%

   If "yes", to what degree do you feel such inequality exists?

A.	Significant degree	48%
B.	Moderate degree	42%
C.	Very mild degree	10%

10. Did you know that the United Nations, under international law, provides national and ethnic minorities with the right to exercise local control over the institutions, services and taxes of their communities?

    Yes 28% No 49% Uncertain 22%

11. Do you believe that in certain instances African Americans have the right to be treated as a "collective body", and not just as "individuals", in the attempt to address their common problems and needs?

Yes 69% No 16% Uncertain 15%

12. If presented with the opportunity, should African-American voters participate in an independent election to create a "National Assembly" to help monitor and represent their own collective interests?

Yes 63% No 22% Uncertain 15%

13. Would you be in favour of African Americans having some degree of independent control over those institutions and services that most directly affect their own communities?

Yes 76% No 14% Uncertain 10%

14. How would you describe your level of satisfaction with the overall quality and direction of today's African-American leadership?

A. Very satisfied 8%
B. Somewhat satisfied 47%
C. Somewhat dissatisfied 34%
D. Very dissatisfied 12%

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Item 2 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Joint written statement submitted by the World Federation of Democratic Youth, a non-governmental organization in general consultative status, and the African Commission of Health and Human Rights Promoters and Interfaith International, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[7 June 1999]

GE.99-13854 (E)

Conflict in the Sudan

1. Africa's longest internal armed conflict, which engulfs the Sudan, has witnessed a new dramatic unfolding with the escalation of the tribal conflict in the Darfur region (western Sudan) into a full-blown ethnic war. This trend seriously threatens to throw this part of the country into a state of complete disarray. Despite its destructive nature and the huge loss of human life and properties associated with it, the armed conflict in Darfur has continued unheeded nationally and unnoticed internationally since the mid-1980s. Two factors have immensely contributed to this state of oblivion: firstly, the prevalent perception that this is yet another traditional intertribal conflict in a very remote area; secondly, the conflict has been overshadowed by the civil war in southern Sudan and the Nuba Mountains with its ethnic, political and religious overtones.

2. While the armed conflict in southern Sudan, and to some extent in the Nuba Mountains, was largely regarded as an ethno-religious conflict between northern Arab Muslims and southern black African Christians, the conflict in Darfur is a classical ethnicity-induced and racially motivated one as both parties to the conflict are followers of Sunni Islam and use Arabic as their lingua franca. Despite these facts the conflicting parties identify themselves as Arabs or Africans on racial and ethnic grounds. On the one hand there are the settled aborigine farmers such as the Fur and Massalit tribes who live in the wetlands in Jabel Marra massif and the southern parts of the region. These groups identify themselves as black Africans. On the other hand there are the pastoralist nomads who live in the semi-arid areas and identify themselves as Arabs, with the exception of the Zaggawa who consider themselves as non-Arabs.

3. Within the broad African and Arab ethnic groupings in Darfur, a number of subdivisions constitute an integral part of the social construct. They can be classified in about 85 tribal subgroups, the main among them being: the Fur, Zaggawa, Bideyat, Tingur, Massalit, Tama, Mima, Bergu, Meidob, Mararit, Berti and Bergid non-Arab tribes and the Reziegat, Habbaniya, Taaisha, Maaliya, Mahariya, Beni Halba, Irayqat, Mahamid and Beni Hussein Arab tribes. Each of the major tribes usually owns its geographic territory locally known as Dar (homeland) where traditional chieftains play cardinal roles in organizing social life as well as intertribal and intratribal relationships. The total area of Darfur is about 160,000 square miles with an estimated population of more than 6 million of whom 74 per cent identify themselves as black Africans or non-Arabs while those of Arab descent account for only 15 per cent of the population.

4. Underlying factors of the armed conflict in Darfur can be traced to the ecological degradation caused by the prolonged and severe climatic desiccation which has hit the region since the 1960s, together with the intensive exploitation of the soil, water sources, forests and flora as well as the increase in the human and animal populations. The drought and famine of the 1980s have created a large-scale migration of people from the semi-arid northern parts of the region to its southern parts. Another factor was the

massive extraction of the region's natural resources by the northern Sudanese merchant class known as "Jallaba" supported by the biased behaviour of the ruling northern el e. The situation was further aggravated by negligence and marginalizatic t the people of this area as well as the unwise administrative and political policies imposed by the successive central Governments on the region.

5. The situation has become unprecedentedly bad during the tenure of the present Government because of its tendency to misuse ethnic and tribal differences to gain absolute control over the inhabitants of the region, and to secure the military support of the sturdy pastoralist nomad tribes to implement its fundamentalist religious and cultural programme. It is widely believed that the Government's deliberate policy aims at extending what it considers as the Arabic belt into black Africa. This notion has largely fostered the current conspicuously polarized and antagonistic ethnic stand. The Government's manipulation of tribal differences and its overt support and encouragement of the Arabized tribes against other groups considered less loyal in their religious and cultural adherence have rendered the traditional means for the prevention and resolution of interethnic disputes virtually unworkable.

6. During the last 30 years the armed conflicts among the various ethnic groups in Darfur have experienced two major phases in their development: firstly, the highly localized low-intensity, unmeditated and sporadic raids and skirmishes which characterized tribal disputes from the 1970s to the 1980s; secondly, the high-intensity and persistent warfare as well as widespread lawlessness and criminality from the early 1980s when some parts of the region were hard hit by drought and famine. The current full-fledged warfare started in 1985 at the height of the drought and desertification that hit the region and can largely be described as a war fought primarily over the control of a thriving natural resource base in the middle of a zone of ecological scarcity. It has further developed into a concerted policy to drive away the indigenous people of the area from their fertile land for the benefit of cattle owners who supply the national treasury with huge amounts of foreign exchange in export earnings. The first round was fought between the Zaggawa and Maharia camel pastoralists of the upper northern desert belt, against the settled Fur farmers in the central part of the region around Jabel Marra massif.

7. The main phase was shaped in 1987 when the Arabized tribes organized themselves in what is known as the Arab Congregation and declared war against all the non-Arab inhabitants of the region. The purpose of this Congregation is to lobby for official financial and military backing both from the Central Government and political parties to support its cause in the region. In response to this serious threat, the African tribes, traditionally inclined to a peaceful life, organized their own militia, initially for self-defence, and later forged an unsuccessful link with the guerrilla Sudan People's Liberation Army (SPLA). In 1992 the Government security forces arrested and summarily executed Mr. Da'ood Yahya Boulad, the presumed leader of the rebellion. This is the most aggressive, destructive and large-scale phase of the armed ethnic conflict which continues to haunt the region till today.

8. Since the present Government ascended to power on 30 June 1989, a number of measures have negatively affected the situation. They can be summarized as follows.

9. On 6 November 1989, the Government introduced the Popular Defence Forces Act by which the Government officially recognized the status of the loyal armed groups and the nomad tribal militia as paramilitary forces. This serious development revealed the Government's intention to use such groups to fight on its behalf. The Government became increasingly dependent on the recruitment of nomad tribal militia in paramilitary formations locally known as "Murahaleen". These notoriously undisciplined nomad groups were invested with unlimited powers to maintain security in the region and occasionally to help in the fighting in the war zones in southern Sudan.

10. Darfur was divided into three subregions or states (Willyat), which were subdivided into a number of districts and local councils. The division has entailed reallocation of land on a tribal basis and without due regard to the complex intertribal relationships. Since 30 June 1989, the three regions of Darfur have virtually been under a state of emergency which allows the security and paramilitary forces a free hand to arrest, detain, torture and extrajudicially execute suspected persons. The security forces are frequently deployed in law and order campaigns in which brutal measures are used, especially targeting the indigenous people of the area.

11. On 13 March 1995, the Governor of Western Darfur decided to divide this region into 34 emirates (districts) and appointed a number of amirs (rulers) with the lion's share accorded to the nomad tribes. This decision has instigated a series of tribal clashes between the Arab nomad tribes and the Massalit.

12. As a result of the ongoing conflict and attacks by the nomad pastoralist tribes against the Fur tribe, it was estimated that the latter have lost more than 20,000 people and more than 100,000 homes were burnt. In addition, billions of Sudanese pounds in livestock, agricultural machinery and other properties have been lost. A much larger number of persons were rendered destitute and displaced or forced to migrate to urban areas.

13. The most recent round of fighting by the pastoralist tribal militia was against the Massalit and took place earlier this year in western Darfur around El Ginnena town on the border between the Sudan and Chad. According to the conservative government estimates the nomad Arab militia killed at least 292 persons, burnt down 2,173 homes, looted 92 million Sudanese pounds and 21,204 heads of livestock including cows, sheep, horses and donkeys. In addition, thousands of persons were forced to flee the country into neighbouring Chad. The victims this time were the Massalit African tribe. As they feel well protected by the Government, the culprit tribes refused to compensate the Massalit tribe for their losses, which is usually the way of solving such disputes in the area.

14. The Government of the Sudan is called upon to assume its obligations under international human rights agreements to which the Sudan is a party, and in particular to take the following measures:

(a) To embark immediately on a process to end the armed conflict in the country through a negotiated democratic and peaceful settlement;

(b) To end the regime of terror in the country by dismantling all the tribal militia groups and paramilitary formations known as the Popular Defence Forces; and

(c) To immediately lift the state of emergency in Darfur region and suspend all laws and regulations which severely violate the human rights and fundamental freedoms of the people of Darfur, and to ensure the safety and personal security of the people of the region.

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THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement submitted by the International Fellowship of Reconciliation, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[8 June 1999]

GE.99-13858 (E)

1. A necessary link exists between the right to development and the right of self-determination. Common article 1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) affirms the right of self-determination as the right from which all other fundamental human rights flow. The Declaration on the Right to Development (art. 1) specifically acknowledges that the "human right to development also implies the full realization of the right of peoples to self-determination". Notably, article 5 of the Declaration provides as a precondition to realizing the right to development that "States shall take resolute steps to eliminate the massive and flagrant violations of the human rights of peoples and human beings affected by situations such as those resulting from ... refusal to recognize the fundamental right of peoples to self-determination".

2. Nonetheless, certain States continue to deny fundamental human rights on the grounds that these rights are incompatible with the right to adequate economic development. This position is inconsistent with the duty of States "regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms", as recognized by the Commission on Human Rights in its resolution 1997/72 on the right to development. It also fails to understand that promoting and protecting human rights, including the right of self-determination, are a necessary precondition to sustainable economic development.

3. We will address this issue through two examples: China's development policies in Tibet and the recent collapse of the Indonesian economy. In both cases, development schemes resting on the failure to honour the right of self-determination have not provided an adequate and fair distribution of resources and are economically unsustainable.

4. China has signed the ICESCR and the ICCPR. China has nonetheless taken the position that the right of its citizens to adequate food and shelter outweigh all other human rights. In practice, however, China has failed to provide fair or adequate resources for the Tibetan people. That failure first led to the first famines in Tibet's history, in the 1950s and again during the late 1960s, and now still leaves many Tibetans without adequate nutrition. The failure is directly traceable to China's failure to honour the Tibetans' right of self-determination. The development scheme in place in Tibet, moreover, shows every sign of being unsustainable.

5. The development scheme in Tibet rests on two foundations: (1) decisions made by central planners in Beijing; and (2) population transfer into Tibet of Chinese settlers. These two foundations ensure that Tibetans do not participate in development decisions regarding Tibet, and that what development that does take place benefits primarily Chinese settlers, Chinese investors and Chinese authorities. One notable example is the World Food Programme project for the Lhasa River Valley, carried out without Tibetan participation. Another is the Panam project, blocked by the European Union because of the lack of Tibetan participation.

6. In August 1998, Xinhua, the official Chinese press service, announced the completion of 60 development projects in Tibet, among 62 projects that had been planned by Beijing. Tibetans did not participate in the planning or

implementation of those projects. These projects, moreover, were intended primarily "to enhance foreign investment" in Tibet and were concentrated in urban areas dominated by Chinese settlers. Few reached the vast majority of Tibetans who live in rural areas. In December 1998, Chinese authorities announced additional preferential policies to attract foreign investment to Tibet.

7. Typical of the foreign investment in Tibet is the joint venture formed in 1997 to mine traditional Tibetan areas incorporated into Sichuan Province. A Canadian firm will extract minerals in partnership with a Chinese (State controlled) mining enterprise and a group of overseas Chinese investors. There is no Tibetan participation.

8. In December 1998, Tibetan Information Network reported plans to link China with Tibet through a railway line from Qinghai Province (created out of the north-eastern Tibetan province of Amdo). Even Chinese economists acknowledge that the railway is not justified economically, but is intended to help bring Tibet under greater political control, in part by opening Tibet to more troops and settlers.

9. China reported 13.4 per cent growth in Tibet's economy in 1997 due to "increased investment in basic infrastructure". Economic experts have observed, however, that the subsidies propping up the growth rate in Tibet are not sustainable in the long run and will have dire economic consequences once they decline or disappear altogether.

10. In the meantime, Tibetans are not participating fully in what economic development there is. Tibetans suffer discrimination in employment from the Chinese settlers and cadres who control most jobs. Inadequate and costly schools for Tibetans and Chinese language requirements also prevent Tibetans from participating fully in Tibet's economy.

11. Two stark indicators that development is not benefiting Tibetans are education and health. In 1996, China acknowledged to the Committee on the Rights of the Child that 33 per cent of Tibetan school-age children receive no education at all compared with a mere 1.5 per cent of Chinese children. In addition, a 1996 study shows that, although the height of Chinese children has increased over the last 20 years, the height of Tibetan children is actually declining, probably due to nutritional deficiencies brought on by Government-imposed changes from traditional economic patterns, the introduction of status foods by settlers, and generally inadequate health care. The high cost of hospitals, moreover, puts all but the most minimal health care out of the reach of most Tibetans.

12. Chinese-controlled economic development, therefore, is not providing Tibetans with an adequate or fair measure of economic opportunity. The hindering of Tibetans' participation in development decisions and aggressive population transfer are aimed at maintaining political control over the territory, not at raising the standard of living of Tibetans as such. Many Tibetans have benefited from this economic development scheme, but most have been harmed. The scheme is not grounded in sound economic decision-making and there is good reason to believe that the scheme cannot sustain itself.

13. Indonesia, too, has shown that economic development can be fragile where it rests on the failure to respect human rights and the right of self-determination. Indonesia was once presented as a system successfully combining economic growth with an autocratic government and rigid control of civil and political rights. The collapse of the economy revealed that the economic development was a thin façade precisely because it rested on cronyism, corruption, the inability of the vast majority of Indonesians to participate meaningfully in economic and political decisions, and the inability to speak freely about the country's problems. As the United Nations Development Programme has pointed out: "Human rights and sustainable human development are interdependent and mutually reinforcing. Development is unsustainable where the rule of law and equity do not exist; where ethnic, religious or sexual discrimination are rampant; where there are restrictions on free speech, free association and the media; or where large numbers of people live in abject and degrading poverty." Indonesia prove the truth of this statement. Tibet will too, unless China begins to recognize the Tibetan people's right to self-determination.

14. We therefore call upon the Sub-Commission on Prevention of Discrimination and Protection of Minorities to seriously review the human rights situation in Tibet at its fifty-first session.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Written statement submitted by the International League for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 June 1999]

GE.99-13862 (E)

1. Member States, thematic mechanisms of the Commission on Human Rights and NGOs continue to document violations of human rights of the Tibetan people by the Chinese Government. Human rights abuses, indeed, are increasing in number and severity since the adoption of resolution 1991/10 by the Sub-Commission. Individually, these human rights violations warrant the Sub-Commission's concern. Collectively, the pattern is so pervasive and persistent as to demand immediate condemnation and action.

2. That pattern of human rights abuses, and the sources of that pattern, were recognized in the International Commission of Jurists' 1997 report on Tibet, in which it concluded that Tibet is under "alien subjugation" and called for a referendum by Tibetans to determine how they wish to be governed. Indeed, allowing Tibetans to exercise their right of self-determination appears to be the only way to end the persistent human rights abuses in Tibet.

3. For the past 20 years, the Tibetan government in exile under the leadership of His Holiness the Dalai Lama has been pursuing a policy of dialogue with China to resolve the Tibetan problem. In this spirit of reconciliation and compromise, numerous proposals were outlined by His Holiness the Dalai Lama. However, the Chinese leadership continues to oppose negotiations without preconditions although the Dalai Lama has said on record that he is not seeking the independence of Tibet. China has instead initiated a ruthless campaign in Tibet to further deny the Tibetan people of their human rights and fundamental freedoms.

4. Suppression of religion. The Chinese Government continues to attempt to undermine the practice of Tibetan Buddhism. It still refuses to allow visitors to confirm the well-being of the eleventh Panchen Lama of Tibet, Gedhun Choekyi Nyima. Human rights groups and Governments report that scores of monks and nuns have been detained or expelled from their monasteries and nunneries for objecting to an ongoing "re-education campaign" or for refusing to denounce the Dalai Lama, as in the case of the crackdown at Rongpo Rabten monastery in Nagchu prefecture during which 15 monks were arrested. Chinese authorities have also demolished temples and monasteries, as in the case of Drag Yerpa, a pilgrimage site outside Lhasa. For the past three years, a concerted re-education campaign has been conducted to undermine the Dalai Lama as a religious leader, which attempts to go so far as to redefine the historical significance of Tibetan Buddhism to Tibet's culture. In north-eastern Tibet (renamed Qinghai), monks over the age of 60 have been forced to "retire" in an apparent attempt to limit the survival of Tibetan Buddhist traditions. Furthermore, China now wants to transform Tibet into an "atheist" region.

5. Forcibly limiting births. Although China ratified the Convention on the Elimination of All Forms of Discrimination against Women, State-sponsored violence against Tibetan women is common. Article 16 of the Convention gives women the right to decide on the number and spacing of their children and prohibits compulsory sterilization or abortion. In practice, restrictive birth control policies are carried out in Tibet through coercion and force. Reports continue to be received of village campaigns of forced abortions and sterilizations, as in the Chushur district of Lhasa city where 308 women were sterilized in only one month in late 1996. Refugees in India and Nepal also report coercive measures including denying children born in excess of the

limits, a registration card and other welfare facilities and withdrawing employment or imposing onerous fines if a woman refuses to give her consent to abortion or sterilization. In the context of China's simultaneous transfer of millions of Chinese settlers into Tibet, this conduct raises serious questions concerning possible violations of the Convention on the Prevention and Punishment of the Crime of Genocide.

6. Arbitrary arrest and detention. The number of prisoners of conscience in Tibet has increased steadily since 1988. The number of current detainees confirmed by the Tibet Information Network (TIN) is 550 (at least 17 of whom are children), but is undoubtedly higher because of efforts by Chinese authorities to make information unavailable. Other recent estimates (e.g. by the Tibetan Centre for Human Rights and Democracy and Human Rights Watch) put the number of political detainees at over 1,000. Moreover, more Tibetans in the areas of Tibet outside what China has designated the Tibet Autonomous Region are being arrested for political offences. Gedhun Choekyi Nyima, the 10 year-old Panchen Lama, remains the world's youngest political prisoner.

7. Torture. Article 1 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which China is a State party, outlaws any kind of torture. However, there have been no independent reports of improvement in the treatment of Tibetan political prisoners. Torture remains common in detention centres and prisons and new methods of abuse, such as "forced exertion", are becoming more common, in addition to the usual methods such as shocking with electric batons; beatings; branding with red-hot shovels; scalding with boiling water; hanging upside down or by the thumbs; kicking; attacking with dogs; exposing to extreme temperatures; depriving of sleep, food and water; solitary confinement; sexual violence; and threats of torture and death.

8. Summary execution. In 1998 at least 11 political prisoners were killed in Drapchi Prison in Lhasa during or shortly after the May 1998 protests there. One, Karma Dawa, who helped initiate the Drapchi protests, was executed soon after. Another 10, 6 nuns and 4 monks, all political prisoners, died as a result of abuse and isolation after the May 1998 protests. In 1998, another monk just released from Trisarn Prison, Yeshe Samten, died as a result of abuse.

9. Due to these grave situations in Tibet, we call upon the Sub-Commission on Prevention of Discrimination and Protection of Minorities to recognize the persistent pattern of human rights abuses against the Tibetan people. The pattern points to a threat of destruction of the Tibetans as a people unless they are allowed to exercise their right to self-determination. We therefore call upon the Sub-Commission to support the appointment of a Special Rapporteur to investigate the human rights situation in Tibet.

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FREEDOM OF MOVEMENT

Written statement submitted by the International League for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 June 1999]

GE.99-13866 (E)

Question of population transfer

1. We commend the Sub-Commission on its continuing attention to the problems of population transfer as evidenced by the Sub-Commission's resolution 1998/27, calling fur further study in light of the preliminary (E/CN.4/Sub.2/1993/17) and final (E/CN.4/Sub.2/1997/23) reports of the Special Rapporteur on population transfer, which recognize that population transfers, including the implantation of settlers, affect the basic human rights of inhabitants and settlers. We would like to comment on the human rights problems created by the large-scale but incremental implantation of Chinese settlers into Tibet.

2. The final report defines unlawful population transfer as "a practice or policy that has the purpose or effect of moving persons into or out of an area, whether within or across an international border, or into or out of an occupied territory, without the free and informed consent of the transferred population or any receiving population (para. 66)". The suffering of those driven out and the instability and continued conflict created by the transplantation of occupying settlers are obvious.

3. The final report notes further that population transfer, including the implantation of settlers, is unlawful even when "subtle and incremental" - and even when carried on under the guise of economic development. Such is the case in Tibet. Since 1950, China has maintained a practice and policy of moving Chinese settlers into Tibet despite the opposition of Tibetans. Unfortunately, the transfer of millions of Chinese into Tibet has resulted in grave human rights violations for the Tibetan people.

4. In 1994, the Chinese Government publicly acknowledged that it encourages and supports migration into Tibet. Recent statements by government leaders and in official Chinese publications have acknowledged government policies and programmes to encourage Chinese migration to Tibet. The 1997 Plan for the Tibet Autonomous Region focuses on attracting "private entrepreneurs from outside Tibet" as a principal means to expand the economy. Consequently, Chinese authorities in November 1997 announced additional economic incentives for Tibet and other "ethnic" regions. These are to provide low-interest loans, tax breaks and subsidies over the next three years primarily for manufacturing firms. In August 1998, according to Xinhua, the official Chinese news agency, the Chinese authorities announced the completion of 60 key development projects in Tibet, among 62 projects that had been planned by the Communist Party Central Committee in Beijing without the participation of Tibetans. These projects, while intended to enhance living standards, were also intended "to enhance foreign investment" in Tibet. They are part of an overarching policy of building infrastructure and investment incentives to draw more Chinese settlers (alone or in partnership with other non-Tibetans) into Tibet.

5. In December 1998, the Tibet Information Network reported on renewed plans to attempt to link China with Tibet through a railway line from Qinghai Province. The report noted that even Chinese economists acknowledge that the railway cannot be justified on economic terms alone, but is intended to help bring Tibet under greater political control, in part by facilitating a greater influx of both troops and settlers into Tibet.

6. The oases and mineral reserves of Qaidam Basin in Qinghai Province (north-eastern Tibet) are particularly attractive to Chinese policy makers and settlers. In April 1999, the World Bank revealed that it intended to fund the China Western Poverty Reduction Project, which included the resettlement of about 60,000 Chinese into Amdo Province of Tibet (now incorporated into Qinghai Province). Tibetans in the area have objected to the resettlement and substantial opposition has been raised to the project on human rights and environmental grounds.

7. Tibetans from Tulan County sent two statements to the West appealing for support in efforts to halt World Bank funding of the China Western Poverty Reduction Project. The letters are the first known indications of dissent from the area. The large-scale population transfer project would be funded by $160 million from the World Bank and the International Development Association and is scheduled for a vote on 24 June. According to one letter signed by the "Tibetan citizens of Tulan", in moving Chinese and Chinese Muslims into the area "the settlement is designed to create a dangerous situation in the region. Many of us will die in the conflicts and even if we survive, where do we go? ... We have no alternative but to defend our land ...". The other letter says that the project "is very dangerous to us, an evidence of the Chinese policy of ethnic cleansing of the Tibetan people ... In the event the resettlement project is carried out with the World Bank financing, then the World Bank will have participated in passing a death sentence on us here".

8. The great weight of independent legal opinion has concluded that Tibet was independent when China invaded in 1949/50 and is now an illegally occupied territory. Population transfer, when it involves resettlement into occupied territory, violates article 49 of the Fourth Geneva Convention, which China has ratified. Even if Tibet were not illegally occupied, the resettlement of Chinese into Tibet violates Tibetans' human rights. The right to self-determination provides that "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."

9. The Tibetans are a people with a distinct language, culture, religion and history and are thus possessed of a right to self-determination provided under international law. The Sub-Commission's Special Rapporteur on population transfer has observed more specifically that a people with a right of self-determination have a right to control their economic, cultural and political destiny free of domination by implanted settlers.

10. The population transfer into Tibet that has already taken place, with its accompanying abuse of civil and political rights, restrictive child-bearing practices, threats to the physical health of Tibetans, discrimination, economic and physical dislocation, overburden on the fragile environment and exploitation of resources, is not just infringing on the Tibetans' human rights, it is threatening the survival of the Tibetan people and culture. We encourage the Sub-Commission to move its work on population transfer forward by focusing its attention on particular situations, such as those in Tibet, where the continued implantation of settlers is bringing about severe human rights abuses.

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PREVENTION OF DISCRIMINATION AGAINST AND THE PROTECTION OF MINORITIES

Written statement submitted by North-South XXI, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[21 June 1999]

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GE.99-13870 (E)

The concept of "minority"

1. The concept of "minority", like that of "indigenous people", raises a fundamental question of definition. As deemed appropriate, some movements proclaim themselves representatives of a "minority", others of "indigenous peoples", without any precise criterion being established. The issue is assuming major importance in the context of the process of globalization causing a general weakening of the State.

2. It is necessary to try and formulate a typology of minorities enabling a distinction to be drawn between:

Minorities which are merely one component of a nation divided by States alien to them (this is the case, for instance, of the Kurdish nation placed under the domination of States rejecting the existence of a Kurdish State, and also of the aboriginal or Amerindian peoples); and

Ostensible minorities which, although belonging to the same civilization and having the same centuries-old history as the majority component of a nation, exhibit special cultural, linguistic and other features which may be subject to harassment.

3. The "minority nations" in the former category are often threatened with extinction, being victims of a kind of ethnocidal exclusion or viewed as purely folkloric. The spirit of the Charter of the United Nations and various solutions adopted gives them an evident right to self-determination and full development. These peoples, by "testifying to themselves", demonstrate their right to existence and recognition. The particular components of a single civilizational unit warrant a different kind of treatment: their difficulties reflect shortcomings in democracy. Not to heed their complaints (for example, concerning the inferior status accorded to their language, religion, special cultural characteristics, etc.) is to commit a violation of civil and political rights.

4. By contrast, the widespread recognition, in the North as in the South, of a right to self-determination for any ostensible "minority" proclaiming itself as such without any precise criterion, serves to accelerate the decline of the State and the fundamental principle of sovereignty which is still applicable, in accordance with the Charter of the United Nations. The dissolution of many States as a result of this widespread recognition can only play into the hands of the major Powers, which themselves refuse to consider the existence of internal minorities (cf. the Corsican, Basque, Catalan, Flemish and other questions); the "Balkanization" of the non-Western world is an additional factor weakening the small- and medium-sized States and fostering their complete political "disarmament" vis-à-vis the major Powers.

5. It would be paradoxical if, in the name of the "right of minorities", the right of peoples and the equal sovereignty of States were to become obsolete.

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COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO THE ELIMINATION OF RACIAL DISCRIMINATION

Written statement submitted by North-South XXI, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[21 June 1999]

GE.99-13874 (E)

Situation of migrant workers

1. Migrations are the consequence of underdevelopment, which is itself to a decisive extent the result of the nature of the economic relations between the countries of the South and those of the North. They have become one of the aspects of globalization, and constitute a market just like any other, such as merchandise and finance.

2. Locked as they are into their underdevelopment, the populations of the South, particularly the uprooted agricultural populations, leave the countryside for the towns, and then the towns for the countries of the North. There is consequently no point in considering the question of immigration independently of all the other problems besetting the countries of the South, such as debt, foreign investment, the problems of wages and prices, the uprooting of rural populations, etc. - in other words, all the issues of underdevelopment and therefore of development policies to be promoted. Thus, any discussion about the rights of migrants is likely to be of no avail if it is dissociated from implementation of the right to development.

3. The States of the North, whose interests do not encourage the creation of conditions for the economies of the South to develop, are taking increasingly restrictive measures with regard to migrant workers. In Europe, especially, the various States (whatever values are espoused by their Governments) are taking similar measures with regard to people from the countries of the South:

Strict limits on the issuing of visas and "priority" exclusion of people from the South;

Classifying an irregular stay as a criminal offence accompanied by administrative detention without trial or penal sanctions;

Failure to respect the right to work and the right to social protection;

A restrictive interpretation of the Convention relating to the Status of Refugees and an improper classification of refugees and migrant workers; and

Legal discrimination of a xenophobic nature (selective identity checks, house searches, police investigations, etc.).

This pattern of repression and discrimination towards migrants from the South represents a violation of international human rights instruments, creates a xenophobic and racist climate in the developed countries which is disturbing for North-South relations, and debases democracy and its values to the detriment of the rights and freedoms of nationals of the industrialized countries themselves. "Under cover of combating clandestine immigration", writes Professor D. Loschak, President of the French branch of the Immigrant Information and Support Group (GISTI), "a repressive police system of which everyone, including nationals, will have to bear the consequences, is becoming an established and familiar feature".

4. The following rights and freedoms enshrined in the international human rights instruments are thus called into question:

Freedom of movement;

The right of asylum;

The right not to be detained without trial;

The freedom to come and go and the absence of racial discrimination (identity checks and other police intervention on the basis of facial appearance); and

Equal access to State health care and social services.

5. The question of the rights of migrants must be considered in the context of a global approach to the migration phenomenon. Merely attempting to correct the abuses practised by the States of the North is not likely to have any real impact. The Sub-Commission has good reason to call for support to be given to the project of holding a world summit on migration problems and on the rights of migrants, the scope of which is continually decreasing.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Written statement submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 June 1999]

GE.99-13878 (E)

1. The Society for Threatened Peoples wishes to once again draw the attention of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to the deteriorating situation of religious freedom in Tibet. It is hoped that by submitting this statement the human rights mechanisms of the Commission on Human Rights will consider concrete scrutiny of the violations of human rights and fundamental freedoms in Tibet.

2. The People's Republic of China, by adapting human rights to its national laws, degrades the significance and universality of human rights when it fails to live up to international standards of human rights. As a result, there exists widespread violation in all areas of human rights in Tibet. The people of Tibet are denied their basic right to freedom of religion and reports indicate that an escalating number of Tibetans are being arbitrarily detained for refusing to oppose their spiritual leader, His Holiness the Dalai Lama. Tibetan Buddhism is not simply the religion of the Tibetan people. Over the centuries, Tibetan national and cultural identity became indistinguishable from religious identity to the extent that Buddhism regulated the life of all Tibetans.

3. In recent years, a repressive policy was adopted by China in order to neutralize religious influence within the Tibetan community. From China's perspective, Tibet's strong religious traditions fuel three persistent nuisances. Firstly, Tibet's religious strength is closely linked with its defiant independence movement: underground political groups have burgeoned in Tibet's monasteries and nunneries; and Tibetan monks and nuns fill Chinese prisons, making up 68.83 per cent of Tibetan known current political prisoners. Secondly, Tibet's Buddhist religion unifies and defines the Tibetans as a distinct people; distinct in particular from China and its coercive strategies to "unite the Motherland". Thirdly, it constitutes an obstacle to China's economic "development" of the region: in November 1995, in an article in China's official newspaper, monks were attacked for "not contributing to economic growth".

4. In January 1996, the Chinese authorities warned, "(t)hose who make use of religion to interfere with administrative, judicial, martial, educational and other social affairs, especially those who take advantage of religious reasons to split the country, must be severely cracked down upon according to law". Three immediate tasks were identified in order to "clean up problems in religion" in 1996: to order all places of worship to register; to deal with difficult religious problems of public concern; and to cultivate contingents of young patriotic religious leaders. Three months later, on 28 April 1996, China's national "Strike hard" campaign was launched inside Tibet. While this campaign was to crack down on crime and corruption, in Tibet the campaign was targeted at "splittists" who supported Tibetan freedom and His Holiness the Dalai Lama.

5. An integral part of "Strike hard" in Tibet was the "patriotic re-education" drive which drastically suppressed religious freedom in monasteries and nunneries and at other Buddhist sites. Communist "work-teams" were sent into monasteries and nunneries all over Tibet to forcefully "re-educate" monks and nuns in how to think and act. Those who resist face punishment in the form of expulsion or imprisonment. The core of the

"re-education" sessions is to oppose notions of Tibetan nationalism and to denounce His Holiness the Dalai Lama. Those who oppose face severe repercussions.

6. Since China launched the "Strike hard" campaign in Tibet in April 1996, 9,827 expulsions, 318 arrests and 14 deaths have been reported as of February 1998. Regulations allowing entrance into monasteries have been tightened - for example, by the imposition of minimum and maximum age restrictions - thereby further reducing the monastic population and discouraging religious studies. China reports that so far some 30,000 of Tibet's 46,000 Buddhist monks and nuns have received "patriotic re-education" and out of 1,787 monasteries and temples, a reported 1,780 monasteries and temples have been covered by the work-teams. The Chinese authorities have also started to extend the campaign from monasteries and nunneries into all parts of Tibetan society.

7. In November 1997, the Chinese authorities announced that the "patriotic re-education" would be carried out in agricultural communities, towns, cities, government organs and schools. An announcement carried by the Tibet Daily of 21 November 1997, signalled the "success" of a pilot project carried out by the authorities to see if the "patriotic re-education campaign" could be safely adapted to the rural communities, where the Chinese authorities were concerned that the influence of His Holiness the Dalai Lama was increasing.

8. It is not only His Holiness the Dalai Lama who is under attack by the Chinese authorities, but Tibetan Buddhism itself. In July 1997, in a radical rewriting of a history that goes back centuries, Tibet's top leader, Tibetan Autonomous Region Party Secretary Chen Kuiyuan, declared that "Buddhism is a foreign culture" and claimed the idea that Tibetan culture is Buddhist to be "totally absurd". This was followed by the announcement in November in China's official newspaper that the ideological "re-education" campaign could continue for the next three to five years, stressing that, "religion must adapt to the development needs of socialism and not socialism adapt to the needs of religion".

9. Religious and cultural rights are internationally recognized human rights. The incorporation of these rights in international law is a recognition that the preservation of these values is of concern to the entire world community. The right to freedom of religion is enshrined in article 18 of the Universal Declaration of Human Rights and thereby represents an international standard applicable to all nations. The inseparability of religion and culture in Tibetan society means that the Tibetan people's freedom of religion is also protected under article 15 of the International Covenant on Economic, Social and Cultural Rights (signed by the People's Republic of China in October 1997) which recognizes the right of everyone "[t]o take part in cultural life". China regularly claims that the Tibetan people's human rights are being observed and that they enjoy full religious freedom.

10. The brunt of China's religious repression is currently borne by Tibet's monks and nuns, as shown in a recent report, "Closing the door - religious repression in Tibet", released by an Indian based human rights

group, the Tibetan Centre for Human Rights and Democracy. The report concludes that the accounts compiled reveal violations of internationally recognized human rights to religious and other freedoms on the part of the People's Republic of China and represent an immediate and critical threat to the very survival of the religious, linguistic and cultural identity of the Tibetan people.

11. The current attacks on the Tibetan freedom movement's perceived "splittist" activities, and on His Holiness the Dalai Lama as a political and as a religious figure, are also central in the drive to construct what the People's Republic of China calls "spiritual civilization". For example, in a 23 July 1996 speech, Chen Kuiyuan asserted that the Dalai Lama had betrayed the "aim of Buddhism" and said that one of Tibet's important tasks in constructing spiritual civilization was to "screen and eliminate the Dalai's influence in the spiritual field". Other tasks, according to Chen, were correctly handling the issue of religion and establishing a "proper concept" of religion.

12. In conclusion, we call upon the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its fifty-first session to initiate concrete actions against China's repeated failures to promote and protect human rights in Tibet. We also urge the Sub-Commission to seriously review the situation in Tibet since its adoption of resolution 1991/10 on Tibet on 23 August 1991.

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THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

THE QUESTION OF TRANSNATIONAL CORPORATIONS

Written statement submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 June 1999]

(E.99-13886 (E)

The activities of transnational oil corporations in Africa

1. The transnational oil companies operating in the Niger Delta are confronted with a complex political and economic situation. Serious human rights violations by the Nigerian security forces, especially in the Niger Delta, have been reported by different human rights organizations in the last years. Transnational corporations operating under these circumstances have a special obligation to promote respect for human rights and not to become complicit in abuses by the security forces in order to guarantee the full operation of their oil production facilities. Regarding the enormous economic importance of oil revenue in the Nigerian economy, the behaviour of the transnational oil corporations has a serious impact on the decision-making of the Nigerian authorities.

2. The misuse of the oil wealth by Nigerian politicians has generated much frustration among the ethnic minorities living in the Niger Delta. The latest outbreak of this frustration resulted in a massive loss of lives and property in the Warri (Delta state) area. Up to 200 people died in ethnic clashes between the communities of the Ijaw, Itsekiris and Urhobos in May and June 1999. Anger at inequities attributed to the oil production has been one of the causes of the latest clashes in Warri. The people are poor in the midst of abundant resources. The few big industries have shut down and important jobs in the oil industry are not available for local people. No significant measures have been taken by the Nigerian authorities to improve the development of the area.

3. The Government reacts by sending armed squads every time there is a flare-up, in order to guarantee the oil production and to protect the interests of the transnational corporations. Several transnational oil corporations are involved in human rights abuses committed by Nigerian security forces. During an attack on the Ogia and Ikenyan communities (Delta state) on 4 January 1999 soldiers used Chevron boats and helicopters. Many houses were burnt down and at least four people died in the incident. Numerous cases are documented in which soldiers committed human rights violations against locals of the indigenous communities in the Niger Delta who were involved in protests over the activities of transnational oil corporations. Sometimes the violations have been committed after the companies requested the intervention of the security forces. Transnational corporations have a legitimate need to safeguard their facilities, but they become complicit in human rights violations if they do not intervene in cases of human rights violations by the security forces guaranteeing their oil production. The Society for Threatened Peoples urges the Sub-Commission to request that transnational corporations should develop procedures to guarantee that their activities do not result in human rights violations. In the case that human rights violations are committed, they should call on the authorities to stop the abuses immediately, to hold the perpetrators responsible and to compensate the victims. They should publish their security agreements with the authorities and private companies. A broader participation of the local communities who will be affected by the activities of the transnational corporations in the planning of the investments of multinational companies is essential to ensure that the projects have the consent of those who might suffer their consequences.

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CONTEMPORARY FORMS OF SLAVERY

Written statement submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 June 1999]

GE.99-11490 (E)

Contemporary forms of slavery in Myanmar and the Sudan

1. The Society for Threatened Peoples regards forced labour in Myanmar (Burma) as one of the most important modern forms of slavery. In no other country in the world are there so many citizens forced by the national authorities to work without remuneration. Millions of people have had to do forced labour since the seizure of power by the military junta in 1988. Burmese citizens, regardless of age or sex, are recruited by force for the central Government's war against different nationalities, to serve as bearers of ammunition or supply goods for the army or as scouts or living mine detectors for the soldiers. Hundreds of thousands are deployed without remuneration to rebuild the infrastructure destroyed during the decades of war. Forced labourers are also deployed in the development of new business areas.

2. Hundreds of thousands of members of different nationalities in this multinational State are now obliged to do forced labour. The forced labourers not only have to provide services without remuneration, they are also regularly the victims of encroachments by security forces. The Society for Threatened Peoples is in possession of dozens of reports by female ex-forced labourers who testify to having been raped by soldiers. "They treat us like animals, they try to extract the last bit of gain from us and consider it their right to beat us to death. For the army, we are not human beings", a former forced labourer complains. In view of these massive violations of human rights the Society for Threatened Peoples appeals to the Sub-Commission to request the Burmese Government to discontinue forced labour immediately.

3. The Society for Threatened Peoples is very much concerned about the fact that the traditional forms of slavery also remain in existence. In the Sudan, each year thousands of women and children are carried off into slavery. They are abducted in the border areas of northern and southern Sudan by militias, who receive arms and funding from the Sudanese army. The abductions by these Murahelleen militias in the disputed border areas of northern and southern Sudan contribute to the intimidation of the population and cause further refugee movements. According to their own figures, the Swiss non-governmental organization Christian Solidarity International has bought the freedom of 9,112 slaves in the Sudan since 1995. In May 1999 alone, 1,400 women and children are said to have been freed this way. Independent of the value of this practice, these distressing figures document the continued existence of slavery.

4. In principle we welcome the fact that the Government of the Sudan has finally acknowledged the continued existence of slavery by the establishment of a committee for the repatriation of abducted women and children on 24 May 1999. Furthermore, we welcome the fact that the committee has far-reaching competence in investigating abductions and prosecuting the perpetrators. Nevertheless, we think it extremely problematic that this committee is under the direct control of the Ministry of Justice and that it is composed of delegates not only from the Ministry of the Interior but also of the military and other security forces. The military is, after all, to a considerable extent responsible for the fact that slavery still continues. Therefore, we ask the Sub-Commission to request the Government of the Sudan to assign representatives of independent non-governmental organizations to the committee in order to guarantee its impartial and effective functioning.

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HUMAN RIGHTS OF INDIGENOUS PEOPLES

INDIGENOUS PEOPLES AND THEIR RELATIONSHIP TO LAND

Written statement submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 June 1999]

1. The Society for Threatened Peoples has been striving for some time to influence the policy of the Government of the Federal Republic of Germany, as well as of the European Union, in order to promote a policy which is based on respect for the different established norms which safeguard the survival of indigenous peoples and grant them self-determination with regard to their development. Up to now, the standards of international law and of human rights appear to be insufficient or extremely limited in their effect, for example, ILO Convention No. 169, which has been ratified by only a small number of countries.

2. In particular, the land rights of indigenous peoples are restricted. Within the context of globalization and liberalization of markets all aspects of life are turned increasingly into merchandise. As a consequence; the rights to mineral resources or the right to an intact environment are negated. They are treated as of lower priority in comparison with the protection of investments. Even in countries where the national constitution is to protect the traditional land rights of the indigenous population, the existence of collective forms of property among the indigenous population with regard to their traditional territories is disregarded systematically, particularly in the framework of the exploitation of mineral resources, the construction of large industrial plants or hydroelectric power plants. The Adivasi in India are being displaced even now for the construction of dams without being offered compensation for their communal land. If any compensation is given at all, individual Adivasi families are compensated for the land directly farmed by them. Other community lands - field margins, fallow land, paths, forest and water - are not taken into account and are lost without compensation. These lands are, however, at least as important, for example in times of need, when fruits from the forest can be gathered or fallow land can be farmed again.

3. The acknowledgement of indigenous territory as a collective legal interest should also take into account the traditional administration of the communal lands. Traditionally, a piece of arable land is farmed, in the name of the community or extended family, by a single member of the community. This member, however, has to consult with the family or the village community, if he or she wants to use the land for other than the usual purpose; if, for example, a company wants to persuade the individual member to allow mining or reforestation in monoculture. As an individual with personal property, he or she would usually be helpless against the bait offered.

4. Therefore, it is urgent to establish a more comprehensive legal standard, i.e. a system of norms including collective rights. The draft United Nations declaration on the rights of indigenous peoples presented by the Working Group on Indigenous Populations is, in our opinion, the suitable catalogue of norms. However, since 1993 only marginal progress has been made towards the adoption of this declaration, although the draft had been discussed before for several years, with the active participation of government observer delegations. We appeal to the Sub-Commission to support with the necessary emphasis the speedy adoption of the declaration on the rights of indigenous peoples presented by the Working Group.

5. A further minimal standard is ILO Convention No. 169. We consider this convention to be an important instrument for shaping political relations

between the European Union and the countries where indigenous peoples live in such a way that they are regarded as partners of equal rank, with guaranteed rights to their territories. The Government of the Netherlands has already taken this step and will take the duties set out in the ILO convention as a guideline for its future policy. We consider it appropriate that the Sub-Commission should request States to follow this example and thus increase the legitimation of this standard.

6. In addition to the recommendations mentioned above we suggest that the Sub-Commission record this year's contributions by the participants in the Working Group on Indigenous Populations and publish them in the framework of the United Nations.

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Item 7 of the provisional agenda

HUMAN RIGHTS OF INDIGENOUS PEOPLES

Written statement submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 June 1999]

GE.99-13898 (E)

1. The Society for Threatened Peoples would like to draw the attention of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to the report of the Special Rapporteur on the study on treaties, agreements and other constructive arrangements between States and indigenous populations (decision 1998/107) which may be finalized when the thirty-seventh session of the Working Group on Indigenous Populations will take place.

2. First of all, we would like to thank and congratulate the honourable member of the Working Group, Mr. Alfonso Martinez, for the work he has carried out over a period of nine years. His study has facilitated a better comprehension and better protection of indigenous peoples. The study provided the opportunity to see new dimensions of the issues affecting indigenous peoples. Therefore indigenous representatives have appreciated the study on treaties and its results, particularly regarding indigenous peoples living in countries with a colonial background.

3. Apart from this general appreciation, the Society for Threatened Peoples would like to mention its concerns on some aspects of the study. In particular, the element of identification of indigenous peoples needs some comment. Obviously, the colonial background has led the Special Rapporteur not to find and not to identify indigenous peoples in certain areas on the Asian and African continents, although indigenous communities do, in fact, exist there. To mention only a few examples:

> If land is a reliable criteria for defining indigenous peoples, the Adivasi in India are indeed indigenous peoples, although some tribal land rights were governed not by written documents but by customs and traditions. Even now in the north-east region of India, the land revenue system prevailing in non-tribal areas is not applicable to tribal dominated states and districts.
>
> There is written evidence indicating indigenous peoples in India, when, for example, the colonial rulers directly acknowledge the indigenous identity of their colonial subjects (see C.U. Aitchinson: Treaties, Engagements and Sanads relating to India and Neighbouring Countries, Calcutta 1930). There are more documents available.
>
> Additionally, in a number of places all over India prehistoric rock art can be found, for example, rock paintings in Hazaribagh (State of Bihar). The local communities claim that these rock paintings were painted by their ancestors. Present-day traditions of house painting among those communities are strikingly similar to the ancient rock art. This tradition is alive, too, in the Bhopal region of Madhya Pradesh, where it may be traced to the pre-historic rock paintings of Bhimbetka. The Warli mud paintings of Dahanu in Maharashtra may be traced to the pre-historic cave paintings of Raisen in Madhya Pradesh. In addition,

there are numerous archaeological sites yielding stone age artefacts. Apparently, all such kinds of information have so far not been duly considered.

4. Therefore, we feel it premature if the study at its current stage should come to a definitive conclusion about who should be considered as indigenous. We would suggest that a further study be carried out in order to detect the extended mosaic of peoples like the Adivasi, to grant them protection and a legal framework to safeguard their basic human rights. Furthermore, we offer our support for this monumental task. Thank you for considering our concerns.

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Item 8 of the provisional agenda

PREVENTION OF DISCRIMINATION AGAINST AND THE PROTECTION OF MINORITIES

Written statement submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 June 1999]

GE.99-13902 (E)

1. The Society for Threatened Peoples warns against endangering the diversity of languages and cultures in the European Union (EU). According to the "euromosaic" study published in 1996 by the European Commission, of the 48 minority languages in the EU territory 23 have only "limited" or "no" capability of survival. Twelve other minority languages are considered as "endangered". 1/ Unfortunately, the EU has hardly drawn any consequences from this study. Of its total budget of 90 trillion Euro, only 2.5 million Euro are available to the organizations of linguistic minorities. This is not enough by far to allow efficient work. Particularly little support is given to those languages which, in their respective countries, are not recognized as official languages.

2. Forty million citizens of the EU do not speak an acknowledged official language, up to now they have been disregarded as a constituting element of the EU. The members of the small European nationalities and minorities without a State who do not speak one of the official languages of the EU as their native language are marginalized. Their hopes of an acknowledgement of their languages and cultures have not been fulfilled by the EU Governments.

3. Some EU member States are following a definitely anti-minority policy. Greece, for example, denies the existence of ethnic minorities like Slavo-Macedonians, Aromanians and Albanians. The Greek authorities discriminate against Muslim minorities - the Turk and Bulgarian speaking Pomaks in West Thrace. Until now, all Greek Governments have rejected the European initiatives for the protection of minorities. Greece is the only EU member State which did not allow the European Office for Minority Languages to form a section in Greece.

4. France denies elementary linguistic and cultural rights to at least 4.5 million members of the Basque, Breton, Alsatian German, Catalan, Corse, Dutch and Provencal minorities. The use of the minority languages violates article 2 of the French Constitution, which establishes French as the only official language. A change in the French minority policy seems likely now. France has signed the Language Charter and thus acknowledges for the first time in principle the altochtone multi-linguality of the country. Following signature of the Charter of Regional and Minority Languages of the Council of Europe, the Society for Threatened Peoples International appeals to the French Parliament to ratify the Charter as quickly as possible.

5. In Italy, only the German and Ladin speaking South Tyrolians, the Slovenians and the Franco-Aostans are protected as minorities. Most minorities, however - Albanians and Greeks in South Italy, Croats in Molise, Provencals, Friulians and Sardinians, Cimbrians and German and Slovenic speakers in Friaul and Carnia, as well as the Ladins in Belluno province - have been waiting for more than 50 years for the realization of the protection of minorities as provided for by article 6 of the Constitution. Although the Chamber of Delegates of the Italian Parliament approved the corresponding law a year ago, the Constitutional Committee of the Senate followed suit only on 3 June 1999 and passed the law. It should be passed by the Senate before the summer break. Fifty years after the adoption of the Constitution, article 6 will be put into practice with a corresponding law. The discrimination against the languages of the minorities has led, according to "euromosaic", to the fact that 6 of the 13 linguistic minorities of Italy have hardly a chance of survival.

6. In Austria, article VII of the State treaty providing for the protection and support of minorities (Slovenians in Kärnten, Hungarians and Croats in the Burgenland) has not yet been fully implemented. Complaints range from the lack of bilingual nursery schools, schools and place names to the lack of recognition of the minority language as an official language. Jörg Haider, head of the Kärnten state government, has stopped the appointment of directors for bilingual schools. He opposes the practice of preferring bilingual experts. Organizations of Slovenian language groups consider Haider's action as a massive attack on bilingual education. Various human rights organizations have called the attitude of the Government of Austria with regard to its linguistic minorities discriminatory.

7. Thus several EU member States act against the content and intention of the Maastricht and Amsterdam treaties. Both treaties, as well as several decisions of the European Parliament, underline cultural and linguistic diversity, demand respect of national and regional differences and oblige the EU to promote different cultures. Furthermore, not allowing minority languages to be used in offices, schools and the media violates several United Nations recommendations (on discrimination, the International Covenant on Civil and Political Rights, the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities).

8. In its 1993 "Declaration of Vienna", the Council of Europe requested the creation of a "climate of tolerance and dialogue", so that all citizens of Europe - including members of minorities - can participate in political life. As a consequence of the "Declaration of Vienna", the Council of Europe passed the Framework Convention for the Protection of National Minorities and the Charter for Regional and Minority Languages. The Charter as well as the Framework Convention have been ratified by a sufficient number of States to enter into force. The fact remains that neither of these documents has been transformed into national law by the ratifying countries. These States have not yet created the climate of tolerance requested by the Council of Europe. 1/

Note

1/ Minority languages with "limited" or "no capability of survival" are: Belgium: German (Montzen); Germany: Low Frisian, Sater Frisian (Oldenburg); France: Basque, Breton, Corsican, Dutch (West Flanders), Occitan (Provencal); Greece: Slavo Macedonian; United Kingdom: Irish (Northern Ireland), Cornish (Cornwall); Italy: Albanian, Greek (Apulia and Calabria), Catalan (Sardinia), Croat (Molise), Occitan (Piemont), Sardinian; Portugal: Mirandisch; Spain: Portuguese. "Endangered" minority languages are: Denmark: German (Northern Schleswig); Germany: Danish (Southern Schleswig), Sorb (Lausitz); Greece: Turkish (West Thrace); United Kingdom: Gaelic (Scotland); Ireland: Irish; Netherlands: Frisian (Friesland); Italy: French (Aosta), Friulian and Slovenic (Friaul); Spain: Basque (Navarra province) and Catalan (Aragon).

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FREEDOM OF MOVEMENT

THE RIGHT TO LEAVE ANY COUNTRY, INCLUDING ONE'S OWN, AND TO RETURN TO ONE'S OWN COUNTRY, AND THE RIGHT TO SEEK ASYLUM FROM PERSECUTION

Written statement submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 June 1999]

Karen, Shan and Mon refugees in Thailand

1. The Society for Threatened Peoples is deeply concerned about the fate of hundreds of thousands of refugees from Burma (Myanmar) in Thailand. The Karen, Shan, Mon and people of other nationalities fled from forced labour, arbitrary arrest, rape and war to Thailand. As crossing the border without the consent of the authorities in Burma is a punishable offence, returning refugees frequently become victims of arbitrary acts by the authorities. In view of restrictions on the movement of international human rights organizations in the border area imposed by Thai authorities, it is very difficult to investigate encroachments of Burmese security forces. Nevertheless, the names of eight Shan refugees are known to us who were arrested on their return and obliged to do forced labour.

2. After repeated attacks on refugee camps in the area bordering Burma perpetrated in 1998 by armed groups allegedly connected to the Burmese army, the Thai authorities removed the bigger camps to the interior of the country. There are 12,000 people living in these refugee camps. Again and again, Burmese refugees are denied entry into Thailand. On 7 May 1999, 100 Karen were prevented from entering Suan Phung district (Ratchaburi province) in Thailand by soldiers of the Ninth Infantry Division of the Thai army. The Karen had fled after their village in Tenasserim district had been attacked and destroyed by the Burmese army.

3. According to the Thai authorities, besides the refugees in the camps there are 30,000 Burmese citizens living in Thailand illegally. Legalization of their residence in Thailand is impossible for most members of ethnic minorities from Burma. As the Burmese authorities refuse to provide them with identification papers, they cannot cross the border and enter Thailand lawfully. In view of the economic crisis in Thailand, thousands of the Burmese living "illegally" in the country are to be deported to Burma in the next months.

4. We recommend that the Sub-Commission appeal to Thailand to sign the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. Thailand should also be requested to introduce regulations whereby Burmese citizens could find refuge in Thailand legally. Furthermore, Thailand should be requested not only to allow UNHCR representation in the camps, but also to give the refugees free access to international non-governmental organizations.